IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION NO : 4189 of 2003

Between:

Vanga Raghava Reddy, S/o.V.Ram Reddy,

R/o.Rampur Village, Dharmasagar (M), Warangal District.

..... PETITIONER

AND

1. The District Collector, Warangal, Warangal District.

2. The Revenue Divisional Officer, Warangal, Warangal District.

3. The Mandal Revenue Officer, Dharmasagar Mandal,

Warangal District.

4. Jangili Srinivas, S/o.Satyanarayana, R/o.H.No.10-4-121,

Girmajipet, Warangal District.

5. Sirikonda Madhava Rao, S/o.Ramachandraiah,

Flat No.210, Thirumal Residential Complex,

Yousufguda Check Post, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any appropriate Writ order or direction more particularly one in the nature of Writ of Mandamus declaring the proceedings in R.C.No.A/545/2002, dt.22-2-2003 of the 2nd respondent directing the 3rd respondent to cancel the entries in R.O.R. in respect of petitioner's lands in Sy.No.558/A and 560 and title deed No.254886 and 254887 of Rampur village, Dharmasagar Mandal, Warangal is illegal, arbitrary and

violative of principles of natural justice and contrary to the provisions of the A.P. Rights in Land and Pattadar Books Act, 1971 and suspend the same.

Counsel for the Petitioner: MR. J.VENKATESWARA REDDY

Counsel for Respondents 1 to 3: GOVERNMENT PLEADER FOR REVENUE

Counsel for Respondent No.4: MR. M.RAJENDER REDDY

Counsel for Respondent No.5: NONE

The Court made the following ORDER:

The petitioner and his brother claimed to be the absolute owners of agricultural land admeasuring Ac.11-35 gts in Survey Nos.560, 212/E, 335/B, 406/A, 529/C, 558/A and 599/A of Rampur Village, Dharmasagar Mandal in Warangal District. They also obtained necessary title deeds and pattadar passbooks under the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for brevity, 'the Act'). It appears, the petitioner and his brother executed General Power of Attorney in favour of the fourth respondent authorizing him to sell an extent of Ac.4-04 gts in Survey Nos.558/A and 560 authorising fourth respondent to sell and execute a sale deed. Subsequently, they cancelled the General Power of Attorney and also sent a notice to the fourth respondent. Besides this, the petitioner has also published in the newspapers intimating the general public about the cancellation of the General Power of Attorney in favour of the fourth respondent. It appears, the fifth respondent herein made an application to third respondent for issue of pattadar passbooks alleging that the property in Survey Nos.558/A and 560 has been purchased by him from the fourth respondent, the General Power of Attorney Holder. The third respondent appears to have called for an explanation from the petitioner with regard to issue of necessary passbook to the fifth respondent. The petitioner submitted an explanation to the third respondent. But, a report was sent by the third respondent to the second respondent, who passed impugned order on 22-2-2003 cancelling the pattadar passbooks issued to the petitioner and further directed the third respondent to cancel the entries in the revenue records in respect of the land in Survey Nos.558/A and 560. This order is assailed in the writ petition on various grounds including the ground that the same is in violation of principles of natural justice as no notice is preceded.

The second respondent passed the impugned order purporting to exercise the power under Rule 21(1) of the Andhra Pradesh Rights in Land and Pattadar Passbooks Rules, 1989 (for brevity, 'the Rules'). But,
a perusal of the same would show that when the entries in revenue records and pattadar passbooks thereto are to be cancelled, Rule 21 of the Rules does not confer any power. The same deals with power of the second respondent to entertain appeal against the orders of the Mandal Revenue Officer either making an amendment in the Record of Rights or refusing to make such amendment. In this case, it appears, the third respondent sent a report to the first respondent to the effect that the fourth respondent executed a sale deed in favour of the fifth respondent and therefore, the entries in favour of the petitioner and his brother should be cancelled.

In such an event, the power to cancel the entries in the revenue record would flow from Rule 13(2) of the Rules, which confers *suo motu* power on the Revenue Divisional Officer. The learned Counsel for the fourth respondent does not dispute this legal position. However, while ordering the cancellation of pattadar passbooks or entries in the revenue record, the Revenue Divisional Officer has to give an opportunity to the person, whose name is entered in the revenue record to make a representation. Though an averment is made in the affridavit accompanying W.V.M.P. No.2881 of 2004 that such notice was issued to the petitioner including the General Power of Attorney Holder, there is no specific denial of the fact that the petitioner or his brother were not given any notice. Therefore, though the petitioner has an effective alternative remedy by way of revision under Section 9 of the Act, I overrule the objection and dispose of this Writ Petition in the following manner:

The impugned order of the second respondent bearing R.C.No.A/545/2002, dated 22-2-2003, is set aside. The matter is remanded to the Mandal Revenue Officer, Dharmasagar Mandal, Warangal District, to pass appropriate orders in accordance with sub-section (3) of Section 5 of the Act. If any of the parties to this Writ Petition are aggrieved by any orders that may be passed by the Mandal Revenue Officer, they may avail the remedy of appeal before the Revenue Divisional Officer, Warangal, under Section 5(5) of the Act. Till the matters are disposed of by the Mandal Revenue Officer, keeping in view the contentions and rival contentions, there shall be *status quo* regarding the pattadar passbooks and entries made therein. There shall be no order as to costs.

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V.V.S. RAO, J

November 03, 2004.

Ak/Bnr

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The District Collector, Warangal, Warangal District.

2. The Revenue Divisional Officer, Warangal, Warangal District.

3. The Mandal Revenue Officer, Dharmasagar Mandal, Warangal District.

4. Two CCs to the Government Pleader for Revenue, High Court Buildings, Hyderabad (O.U.T).

5. Two CD copies.